

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ANTHONY RIGGINS,	:	Case No. 1:01-CV-503
	:	
Plaintiff,	:	Judge Dlott
	:	
vs.	:	
	:	
FORREST HUNT, et al.,	:	<u>PLAINTIFF'S REPLY TO</u>
	:	<u>DEFENDANTS'</u>
	:	<u>MEMORANDUM IN</u>
Defendants.	:	<u>OPPOSITION TO PLAINTIFF'S</u>
	:	<u>MOTION FOR NEW TRIAL</u>

Defendants rightly point out that Plaintiff filed his motion for new trial (Doc. 107) on December 5, 2003. Pursuant to Fed. R. Civ. Proc. 59, a motion for new trial shall be filed no later than 10 days after entry of the judgment. Judgment was entered on November 25, 2003 (Doc. 104). While the motion was filed 11 days after the judgment was *filed*, it was filed 10 days after the judgment was *entered* (Doc. 104). Additionally, Plaintiff received electronic notice of the filing and entering of the judgment on November 25, 2003. Therefore, the motion was timely filed (Ex. A attached).

Since the Defendants have not opposed the motion on grounds other than the timeliness of its filing, this Court should grant the motion for new trial and schedule the trial before Defendant Hunt is called to military duty.

Respectfully submitted,

s/ Jennifer L. Branch
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CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2003, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. I further certify that a copy of the foregoing pleading and the Notice of Electronic Filing has been served by ordinary U.S. mail upon all parties for whom counsel has not yet entered an appearance electronically.

s/ Jennifer L. Branch
Attorney for Plaintiff